

**SPECIAL MEETING
BOARD OF MAYOR AND ALDERMEN**

August 31, 2004

Upon Conclusion of Public Hearing

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, O’Neil,
Lopez, Shea, DeVries, Garrity, Smith, and Forest

Absent: Alderman Thibault

Mayor Baines advised that the purpose of the special meeting is to consider questions to be ordered to the ballot at the State General Election to be held on November 2, 2004 as follows:

The Clerk presented the first proposed Charter amendment question.

**A. SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE
APPROVE THE CHARTER AMENDMENT SUMMARIZED BELOW?**

SUMMARY/EXPLANATION: The proposed amendment to the Manchester New Hampshire City Charter takes the responsibility and authority to audit the City’s financial records from the City Finance Officer and places the responsibility and authority for audits in the Independent City Auditor created by this proposed charter amendment.

Alderman Lopez moved to order the Charter amendment question to the ballot at the State General Election to be held on November 2, 2004. Alderman Garrity duly seconded the motion. Mayor Baines called for a vote. The motion carried with Aldermen Shea, Smith and DeVries being duly recorded in opposition.

The Clerk presented the second proposed Charter amendment question.

**B. SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE
APPROVE THE CHARTER AMENDMENT SUMMARIZED BELOW?**

SUMMARY/EXPLANATION: The proposed amendment amends the Charter of the City of Manchester, New Hampshire to provide that the school district shall be a department of the City and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget.

Alderman Garrity moved to order the Charter amendment question to the ballot at the State General Election to be held on November 2, 2004. Alderman Guinta duly seconded the motion.

Alderman Lopez stated a lot has been said tonight by a lot of people so I am not going to repeat a lot of the things that have been said because we already heard them but I can tell you that this issue has been going on since the days of the Charter Commission before 1998 and we have worked under bad conditions and we have worked under good conditions. In either case it makes no difference because the bottom line is what we give. We go through the scrutiny as we did this year. I have worked very hard with the Chairman of the Board, Alderman Shea and spent hours and hours working on the budget. Some things we agreed with and some things we didn't but there was always a spirit of cooperation for what was good for the citizens of Manchester, the taxpayers and the students that we have to educate. Time and time again we fight in court and we lose. Now we are just going to make it a department. Nothing will change. We will just make it a department and then we fight back and forth. I think there is a better way of cooperation and working with people and trying to get something done. I really don't know what the problem is. I think one Alderman on this Board at one time said sometimes we just want to vote on something and do something without knowing what the problem is. The facts have been stated. There were a lot of questions – a lot of legal questions that are not going to be answered here tonight. I can remember that three Aldermen were appointed and three School Board members were appointed and they had meeting after meeting and this Board has never received a report as to the savings that were going to take place and what the savings were with the consolidation of human resources, finance and legal, especially legal. I think Tom Clark or Tom Arnold can speak for themselves but I believe they went on record that they would need somebody specialized in education for the legal portion so we would have to contract it out. No more than the School Board is doing now. So, what I am saying is we have a great relation with the School Board right now and who knows maybe the next election we won't have a great relationship. It depends on who gets elected but at least the administrators that are there we are working with and most of them will still be there and take the message that we are cooperative Boards working together for the betterment of the City. I am going to vote no to sending this to a referendum. We have the authority to give them the bottom line after we go through the process. We give them the bottom line and that is it. I just want to mention for the record that on August 27 we received a letter from Tom Arnold stating that "however, it is clear that the situations, which have no clear precedents or answer in law, will probably arise where the Board of Mayor and Aldermen and the Board of School Committee will differ as to each other's authority. In those situations, while this office can offer good faith opinions, the final answer or resolution will probably lie with the courts." With that, I am asking my colleagues not to send it to referendum because there are uncharted waters and unanswered questions to this referendum question.

Alderman Garrity stated in reviewing the 2001 numbers it passed overwhelmingly. It is three simple words “Let the people decide.” They knew back in 2001 what they were voting for. They will know this time. It is three simple words “Let the people decide.”

Alderman O'Neil stated I have a few comments. First of all I heard some talk tonight that we need to study it. We don't need to do a study on this. Secondly, I do like job creation programs but I am not really interested in keeping Atty. Eggert employed or giving the City Solicitor's Office anymore to do. Third, I don't recall who made the statement but it was very appropriate. This was borne as it was out of 2001 borne out of mistrust and misinformation. I don't think that exists currently. I have sat on this Board during the period of us versus them. I am also pleased to say that I sit here now and have in the past few years where it has been “we.” The Board of School Committee and the Board of Aldermen working together and I am convinced that the children of this City are receiving a better education because of that. There are two basic questions I ask myself. Will the taxpayers of this City see savings because of this change? I don't believe they will. Most importantly will the children of this City receive a better education and I believe the answer to that is no. I will join Alderman Lopez and hopefully others this evening in voting no to sending this forward.

Alderman Guinta stated I would like to thank everybody who came out here tonight. This issue shouldn't be a partisan issue and it shouldn't be a political issue. It shouldn't be an issue about relationships and who is mad at who or who is not mad at who but I commend everybody who came out tonight and took time out of their schedule to talk about something that is clearly important to everybody in this room. I think this is a testament to the respect that each Board has for the other. I really do sincerely appreciate that and I think these two Boards have come a long way. For me I am not going to say whether I think this should pass or whether it should not pass or why I think it should or shouldn't. What I am going to say is three years ago it did pass and there was a lawsuit and a judge said if you want it to pass according to RSA's this is what you have to do. That has been done. To me this issue is about letting the voters speak their mind – nothing more and nothing less. If the voters want it, we have to adjust. If the voters don't want it, we will continue as is. For me it is as simple as that. I am going to let each individual person in this City to decide behind a curtain what they think is the best course of action for this City. I think that is a responsible vote and I think it is a respectful vote of the City and of the City's residents.

Alderman Osborne stated I go along with Alderman Guinta. I was an Alderman 20 years ago also as you all might know. I have never voted against a referendum question. I have always believed to let the people decide. I can see where there probably wouldn't be much savings. I agree with that wholeheartedly but as far as where the people come, the people come first with me and that is the way I feel. Thank you.

Alderman Forest stated I just want to encourage my colleagues to vote no on this amendment and the reason I say that is three years ago when I ran for Alderman this Board and the School Committee were in chaos. Everybody was calling each other names. They were yelling and screaming and nothing was getting accomplished. We had a prior Superintendent that walked out on the Board because somebody asked him a simple question and he told the Board it was none of their business. He is no longer here. My predecessor is no longer here. There are some members of this Board who were elected because we wanted to bring civility to both Boards and I think we have done that in the last three years. I don't think this amendment...I think the people realize where we were. This amendment will not change a thing. We were elected to make decision and this is the reason I am urging my colleagues to vote against this amendment.

Alderman Gatsas stated I think there are three issues that certainly need to be discussed. Alderman Lopez talked about a committee that was set-up some two years to talk about synergies that we were going to have. Myself, Alderman O'Neil and Alderman Wihby were on that committee and I will refresh everybody's mind that when we, as Aldermen, went to that first meeting we went in with, I believe, open eyes and open thoughts. The first day we were there we were criticized for what we were doing. So, Alderman Lopez, we made that attempt. We didn't meet several times, we met three or four times. There are synergies. There is no question. There is nothing in this referendum that says anything has to change. Nothing says that we have to change anything on how we run City business today between this Board and the School Board. So for people to sit there and say why are we changing because we all remember when we had a Superintendent who overspent the budget by some \$3 million and didn't want to account to anybody. Have those days changed? Sure they have. Do we have the ability to change anything if we go back to those old days? No we don't. This gives us that ability. I certainly commend the School Board for bringing forward their savings. If I remember correctly, I think Mr. Donovan said it was \$2.4 million in one year and \$1.8 million in the next. That is \$4.2 million. If my math serves me correct that is \$.80 on the tax rate. So when members of this Board say there isn't a savings it is \$.80 on the tax rate that would have been saved. \$4.2 million returned to the City increased the taxes by \$.80. That is a very clear analysis and it is a very simple analysis. So with that, your Honor, I think that the people of this City should have that opportunity. They voiced their opinion once and they should have that opportunity again.

Alderman DeVries stated I respectfully disagree with Alderman Gatsas. I do not believe that we know all of the changes that will occur if this does go out to the public and then the district becomes a department. I think Superintendent Ludwell put it very succinctly saying that no study has been done. We don't know how the Yarger Decker wage scale is going to be interpreted in the School department and if that is immediately going to cost the taxpayers additional funds. Do we know? Do we believe that we are somehow going to have additional controls over the budget where state statute already dictates that the school district alone hold line item transfers. We can only appropriate the lumpsum as we do today. We

cannot direct transfers. That is state law. I do not believe that the time to put this forward is today. If this does return after proper study and due diligence by this Board and the School Board we may consider this differently. Today there are far too many unknown factors and too many of Alderman Shea's unintended consequences could occur and could, in fact, cost the taxpayers considerably more when they think they are getting something that is going to save them money. That has to be flushed out before we ever consider going down this road. At this point in time I would like to move the question.

Alderman Porter stated I don't have the benefit of having been here in 2001. I certainly don't have an issue with the School Board being, as we heard "if it ain't broke, don't fix it." I am not stating that it is broke. I think they have done a very good job and there has certainly been a harmonious relationship. To me the issue is simply do I wish to have the input of the voters in Ward 6 and I will cast my vote with that in mind.

Alderman Smith stated I would like to ask my colleagues what is going to be the benefit to this Board of Mayor and Aldermen. We have a tough time with our annual budget. We are taking on another complex situation. As my colleague said, the pay scale – Yarger Decker. It has put us in a hole by implementing Yarger Decker. Now that the School District will be a department of the City are we going to give them Yarger Decker plus the benefits they receive and the COLA, which is very important to the tuition people? This is not a turf battle. I really think that if you do anything, consider the participants. Consider the students. We are better off than we were three years ago. No question about it. We have better facilities and better teachers coming in with Master's degrees. I think there is no substitute for education and I think the School Board has been doing an excellent job and I would like my colleagues to vote this down.

Alderman Gatsas stated I think it is unfair for anybody to bring the bogeyman into this, Yarger Decker, because we know that Yarger Decker is a problem for the City. Yarger Decker was in effect when the School District was a department and it didn't affect them. We can't bring Yarger Decker into it. Let's leave it alone and let's leave the retirement system alone because all of those were here when it was a department and not a district. Again, I don't question whether we are working harmoniously with the School District because I believe we are. I just believe that we should have an opportunity that if something should ever change we have that mechanism and not have to go to the voters for a referendum two years after that is a problem.

Alderman Smith stated when this legal battle took place a few years ago from what I understand the School District spent about \$140,000 in legal fees and our fees were supplemented by the City Solicitor in house. So I think that over \$200,000 was spent between the parties. There will be a cost as you do know. I don't think anybody has threatened anybody. If you read the letter from Tom Arnold it is going to be settled again in the courts even if it goes to referendum so I wish everybody would keep that in mind.

Alderman Shea stated I must correct Alderman Gatsas. I was on that committee. There were four of us on that committee. I want to make my position public, your Honor, because I did serve with you in the School District or school department and I found personally that when I served as both a teacher and a principal we were a department. During that time I never had a problem, or at least it didn't occur to me that there was a problem. I am not quite sure whether there is any difference now whether you call it a district or department. I want to make my position perfectly clear. I reason it would be in the best interest of all of us to submit this for a referendum vote. I think it makes sense in my judgement for the public to have input. There may be differences of opinion on the Board and I respect that but I feel very strongly that the people should have a voice in this particular matter. I reason from the point of view that to me it is not going to make any difference whether we call it a district or a department because we have set-up a working agreement with the people in the School District now and whether we call them the people working in the district or the department it is up to the individuals concerned whether it be them or whether it be us working together to solve any problems. I want to make that position very clear.

Mayor Baines called for a roll call vote. Aldermen Garrity, Gatsas, Guinta, Osborne, Porter, and Shea voted yea. Aldermen Smith, Forest, Roy, Sysyn, O'Neil, Lopez, and DeVries voted nay. The motion failed.

Mayor Baines stated I think it is important since people have gone on the record on this that it is important for the Mayor to go on record as well because I know that Riley Yates and others will be asking me anyway. I support the no vote this evening for a very specific reason and the taxpayers of the City should know that there has been absolutely no, no due diligence on this Charter amendment question. Whenever you consider a Charter amendment, having been a member of the Charter Commission with Alderman Lopez and Mr. Cook and others in 1996, every aspect of examining the Charter we did in a very thoughtful and thorough manner because if you are going to change the Charter, which is actually the Constitution of your community, you have to have a compelling reason to do so. In my view there is no compelling reason to make this change. There are numerous unanswered legal issues and there has been no effort at all by anyone to flush them out – none. I think if the Board is going to deal with a Charter amendment, in essence a Constitutional amendment, that has to occur and the Board has the opportunity to do that through its committee structure over the next year or at any time. Because of those unanswered legal questions there is no doubt in my mind that we will be back in court. That is the last place we need to be or should be and that would really be a disservice to the taxpayers, the voters and the students of this City. It is unclear what this amendment, as worded, would accomplish. In my view at this point it would accomplish nothing. In fact the provision of it that the Mayor shall have control over the form and procedures for preparation and adoption of the School Department budget is already part of the Charter. It is not a change and it is presently used. Finally, I would say that the assertion to let the

voters decide sounds great in my view politically but the reality is any one of us could come up with an amendment to say let the voters decide as we are doing on another issue this evening. There is no reason for this Charter amendment to go forward. It would cost the taxpayers perhaps another \$100,000 or \$200,000 at a time when we are struggling to meet the needs of our City and our School District. I want to commend our Superintendent of Schools and the Board of School Committee and specifically the Vice Chairman of the Board and the Chairman of the Finance Committee who have put the School District in a position where it is able to address the very challenging issues of No Child Left Behind, the tremendous undertaking of rehabilitating our existing schools with the support of the Mayor and Aldermen and I think the structures that have been put in place again I would assert make this Charter amendment really a facetious act. It is not needed and I commend the Board for making the right decision in my view this evening. Since you are putting yourselves on the line I am willing to put myself on the line for that issue as well.

This being a special meeting of the Board, no further business can be presented and on motion of Alderman Smith, duly seconded by Alderman DeVries it was voted to adjourn.

A True Record. Attest.

City Clerk